HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH **HON'BLE SHRI V.K. SHRIVASTAVA &**
HON'BLE SHRI DHIRENDRA MISHRA, JJ

MISC. APPEAL (C) NO. 455 OF 2006

Appellants Applicants :

1. Gayatri Bai, W/o Mahesh Ram Gond, aged about 38 years,
2. Anil Kumar, S/o Mahesh Ram Gond, aged about 21 years.
3. Sunil Kumar, S/o Mahesh Ram Gond, aged about 19 years.
4. Yogesh Kumar, S/o Mahesh Ram Gond, aged about 17 years.
5. Ku. Jayanti Bai, D/o Mahesh Ram Gond, aged about 14 years.
6. Ku. Tileshwari Bai, D/o Mahesh Ram Gond, aged about 12 years.
7. Dwarka, S/o Mahesh Ram Gond, aged about 10 years.

Appellant No. 4 to 7 are minors through the mother and natural guardian Gayatri Bai W/o Mahesh Ram Gond, all are R/o Village – Bhodiya, Tah. & Distt. Rajnandgaon (C.G.)

Versus

Respondents Non-applicants :

1. Ramesh @ Rameshwer Nishad S/o Jainath Nishad, aged about 35 years, Driver, R/o Singdai, Ward No. 44, Town, Tehsil & Distt. Rajnandgaon (C.G.)
2. Rupesh Kumar Dewangan, S/o Shankarlal Dewangan, owner of the vehicle, R/o Mohara, Town, Tehsil & Distt. Rajnandgaon (C.G.)
3. National Insurance Company Through-Regional Manager, Regional Office, Akash Ganga Complex, Supela, Bhilai, Distt- Durg (C.G.)

Present

Shri V.K. Sharma, learned counsel for the appellants.
None for the respondents.

O R D E R
(Passed on 24.01.2007)

The following order of the Court is passed by **Vijay Kumar Shrivastava, J**

This is an appeal filed under Section 173 of the Motor Vehicle Act, 1988 (henceforth 'the Act') against the award dated 27.7.2006 passed by Second Additional Claims Tribunal, Rajnandgaon (henceforth 'the Tribunal') in Claims Case No. 123/05 whereby a compensation of Rs. 3,13,000/- has been allowed in favour of the appellants. Feeling aggrieved this appeal for enhancement of the compensation amount.

2. On 1.10.2005 when Mahesh Ram riding a bicycle was going towards village Bhodiya, he met with an accident by truck No. C.G. 08 Z.C.-0625 (henceforth 'the offending vehicle'). At the time of accident the offending vehicle was being driven by respondent No. 1 in a rash and negligent manner. The vehicle was owned by respondent No. 2 and was insured with respondent No. 3. The appellants claiming themselves to be the legal representatives of the deceased calculated compensation on various heads and thereafter filed an application under Section 166 of the Act for an award of Rs. 25,70,000/-. Respondents No. 1 to 3 contested the claim.

3. Learned Tribunal after appreciating the evidence on record passed an award as below;

(a) For loss of dependency Rs. 3,00,000.00

(b)	For agony, pain and suffering	Rs.	5,000.00
(c)	For funeral expenses	Rs.	3,000.00
(d)	For loss of Estate	Rs.	5,000.00
	Total	Rs.	3,13,000.00

4. Contention of learned counsel for the appellant during the course of argument was that the learned Tribunal did not liberally accepted income of the deceased and allowed compensation to the appellants who are wife and minor children of the deceased.

5. From perusal of the record and evidence adduced by the appellant i.e. statement of Chetanlal (A.W.-1) and Smt. Gayatri Bai (A.W.-2), both these witnesses have deposed that deceased Mahesh Ram was working as a labourer and was earning Rs. 90/- per day. They also stated that at the time of death Mahesh Ram was aged 45 years. Learned Tribunal accepted the evidence and applying correct multiplier assessed the loss of dependency and also allowed just and reasonable compensation towards various other heads. We do not find any illegality or infirmity so as to condemn the finding of facts recorded by the learned Tribunal.

6. No other point has been raised during the course of argument.

7. In the result, the appeal is liable to be dismissed summarily and is accordingly dismissed in limine.

Sd/-
V.K. Shrivastava
Judge

Sd/-
Dhirendra Mishra
Judge